

Site 33

WHEN RECORDED MAIL TO:

Department of Toxic Substances Control
Northern California Region
8800 Cal Center Drive
Sacramento, CA 95826
Attn: Anthony J. Landis

CERTIFIED COPY OF
ORIGINAL DOCUMENT
STEWART TITLE

MAR 22 2004

Time: 2:22 PM
Series # 2004026100

THIS SPACE FOR RECORDER'S USE ONLY

Documentary Transfer Tax \$ EXEMPT

 Computed on Full Value of Property conveyed
 or Computed on Full Value less liens and
 encumbrances remaining at time of sale.

As declared by the Undersigned.

TITLE(S) OF DOCUMENT

COVENANT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION

RECORDING REQUESTED BY:

U. S. Army Corps of Engineers
Real Estate Division, ATTN: CESP-K-RE-MC
1325 J Street
Sacramento, CA 95814-2922

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
Northern California Region
ATTN: Anthony J. Landis, P.E. Chief Office of Military Facilities
8800 Cal Center Drive
Sacramento, CA 95826

(Space Above This Line For Recorder's Use Only)

**COVENANT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION**

Re: This Property includes Remedial Investigation (RI) Site 33. The Property is required to be restricted from residential use in accordance with the Basewide Remedial Investigation Sites Record of Decision (ROD) signed by the United States Army (Army), the United States Environmental Protection Agency (EPA), the California Environmental Protection Agency (Cal-EPA) Department of Toxic Substances Control (Department), and the Cal-EPA Central Coast Regional Water Quality Control Board (Regional Water Board) in January 1997. In order to protect human health and the environment as a result of the presence of hazardous materials defined in the California Health and Safety Code (H&SC), Section 25260, promote the economic development of the community, and further the common environmental and land use plan of the State of California and the City of Seaside, the parties agree to be bound by the covenants and restrictions set forth below in perpetuity.

This Covenant, and Agreement ("Covenant") is made by and among The United States of America acting by and through the Army (also referred to herein as the "Covenantor"), the current owner of the herein described real property located in the County of Monterey, State of California, shown on Exhibit "A" and described in Exhibit "B", attached hereto and incorporated herein by this reference (the "Property") and the State of California acting by and through the Department of Toxic Substances Control ("Department").

migrate to groundwater over a 100-year period if left in place at the maximum detected site concentrations. On the basis of these evaluations no further action was recommended by the Army. Pursuant to the Fort Ord Federal Facility Agreement, signed by the Parties in 1990 in which the Army agreed to complete the cleanup at Fort Ord, a Record of Decision (ROD) for RI Site 33 (Record of Decision, Basewide Remedial Investigation Sites), was signed on January 17, 1997. In accordance with the ROD the Property is required to be restricted from residential use.

1.03 Soil on the Property contains site-related chemicals (pesticides, herbicides, and metals) at concentrations exceeding PRGs for residential use from four-tenths (0.4) of a foot to five feet below ground surface. Alternate preliminary remediation goals (APRGs) were developed specifically to assess potential human health impacts for Site 33 on the basis of EPA-derived toxicity values and reasonable maximum exposure assumptions, using EPA guidance for developing risk-based PRGs.

1.04 The concentrations of site-related chemicals detected in the soil at RI Site 33 are listed in the table below; the quantity released of these compounds is unknown.

Site-Related Chemicals	Regulatory Synonym	Maximum Concentration Detected (mg/kg)	APRGs
Chlordane	Chlorodane	5.9	17
2,4-D	Dicopur	0.016	7,700
Dicamba	Banvel	0.21	23,000
4,4'-DDD	DDD	0.93	89
4,4'-DDT	DDT	11	63
Dieldrin	Dieldrex	0.74	1
Endrin	Endrex	0.021	230
Arsenic	Arsenic	4.5	160
Cadmium	Cadmium	2.3	1,100
Chromium	Chromium	36	NA
Chromium VI	Chromium VI	NA	31
Copper	Copper	52.9	420,000
Lead	Lead	85.5	24,000
Mercury	Mercury	65	3,300
Thallium	Thallium	0.5	800
Zinc	Zinc	213	1,000,000

APRGs – Alternate preliminary remediation goals
NA – Not analyzed or not applicable

expressly bound hereby for the benefit of the Department.

3.03 Written Notice of Release of Hazardous Materials. Prior to the sale, lease or sublease of the Property, of any portion thereof, or the execution of a license or easement on the Property, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous materials are located beneath the Property as required by H&SC Section 25359.7.

3.04 Accompaniment to Deeds and Leases. This Covenant shall accompany all deeds and leases, for any portion of the Property.

3.05 Conveyance of Property. The Owner shall notify the Department, not later than thirty (30) days after executing any document conveying any ownership interest in the Property (excluding short-term rentals and leases, mortgages, liens, and other non-possessory encumbrances). The Department, by reason of this Covenant, shall not have the authority to approve, disapprove, or otherwise affect any proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

ARTICLE IV

RESTRICTIONS

4.01 Prohibited Activities. The following uses and activities are prohibited on the Property without the prior review and written approval of the Department:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.
- (e) Disturbance of the soil (e.g. excavation, grading, removal, trenching, filling, earth movement or mining) without a Soil Management Plan and a Health and Safety Plan that have been reviewed and approved by the Department. Any contaminated soils disturbed and brought to the surface by such activities shall be managed in accordance with all applicable provisions of Health and Safety Code Chapters 6.5 and 6.8. The owner will provide the Department written notice and request for approval of the proposed activity at least thirty (30) days prior to the date on which the Owner desires to commence the proposed activity.

4.02 Access. The Department, EPA, and Covenantor, its contractors and agents shall have right-of-entry and access to the Property for inspection, monitoring, testing, sampling, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department, EPA and the Covenantor in order to protect the public health and safety or the environment and oversee any required activities.

original and prior to transfer of the Property from the Army to another owner.

7.04 Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Covenantor: Garrison Commander
ATTN: ATZP-GC
Presidio of Monterey, CA 93944-3223

To Department: Mr. Anthony J. Landis, P.E.
Chief Northern California Operation
Office of Military Facilities
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

To Regional Water Board: Mr. Roger Briggs
Executive Officer
California Regional Water Quality Control Board,
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

To U.S. EPA: Ms. Deborah Jordan
Chief, Federal Facility and Site Cleanup Branch
Superfund Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street, Mail Code: SFD-8-3
San Francisco, CA 94105-3901

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

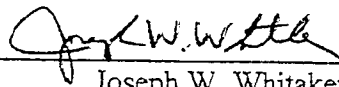
7.05 Partial Invalidity. If any provision of this Covenant is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06 Attachments. All attachments referenced in this Covenant are deemed incorporated into this Covenant by reference.

7.07 Section Headings. The section headings set forth in this Covenant are included for

IN WITNESS WHEREOF, the COVENANTOR has caused this Covenant to be executed in its name by the Deputy Assistant Secretary of the Army for Installations and Housing and the Seal of the Department of the Army to be hereunto affixed this 10th day of March, 2004.

DEPARTMENT OF THE ARMY



Joseph W. Whitaker

Deputy Assistant Secretary of the Army for Installations and Housing

ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)

)ss

COUNTY OF ARLINGTON)

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, County of Arlington, whose commission as such expires on the 30th day of November, 2006, do hereby certify that on this day personally appeared before me in the said Commonwealth of Virginia, County of Arlington, Joseph W. Whitaker, Deputy Assistant Secretary of the Army for Installations and Housing, whose name is signed to the foregoing instrument and acknowledged the foregoing instrument to be his free act and deed, dated the 10th day of March, 2004, and acknowledges the same for and on behalf of the UNITED STATES OF AMERICA.

Given under my hand this 10th day of March, 2004.


NOTARY PUBLIC

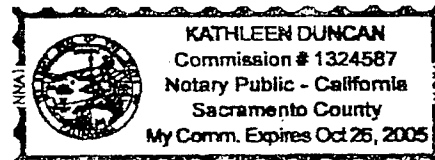
IN WITNESS WHEREOF, the DEPARTMENT OF TOXIC SUBSTANCES CONTROL,
STATE OF CALIFORNIA has caused these presents to be executed on this 26th day of
January, 2004.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Anthony J. Landis
Anthony J. Landis
Chief of Operations

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)ss
COUNTY OF SACRAMENTO)



I, the undersigned, a Notary Public in and for the State of California; County of Sacramento, whose commission as such expires on the 26th day of October, 2006, do hereby certify that on this day personally appeared before me in the said State of California, County of Sacramento, Anthony J. Landis, whose name is signed to the foregoing document dated the 26th day of January, 2004, and acknowledges the same for and on behalf of the Department of Toxic Substances Control.

Given under my hand this 26th day of January, 2004.

Kathleen C. Duncan
NOTARY PUBLIC

EXHIBIT "A"

Plates showing property restricted by this covenant.

EXHIBIT A

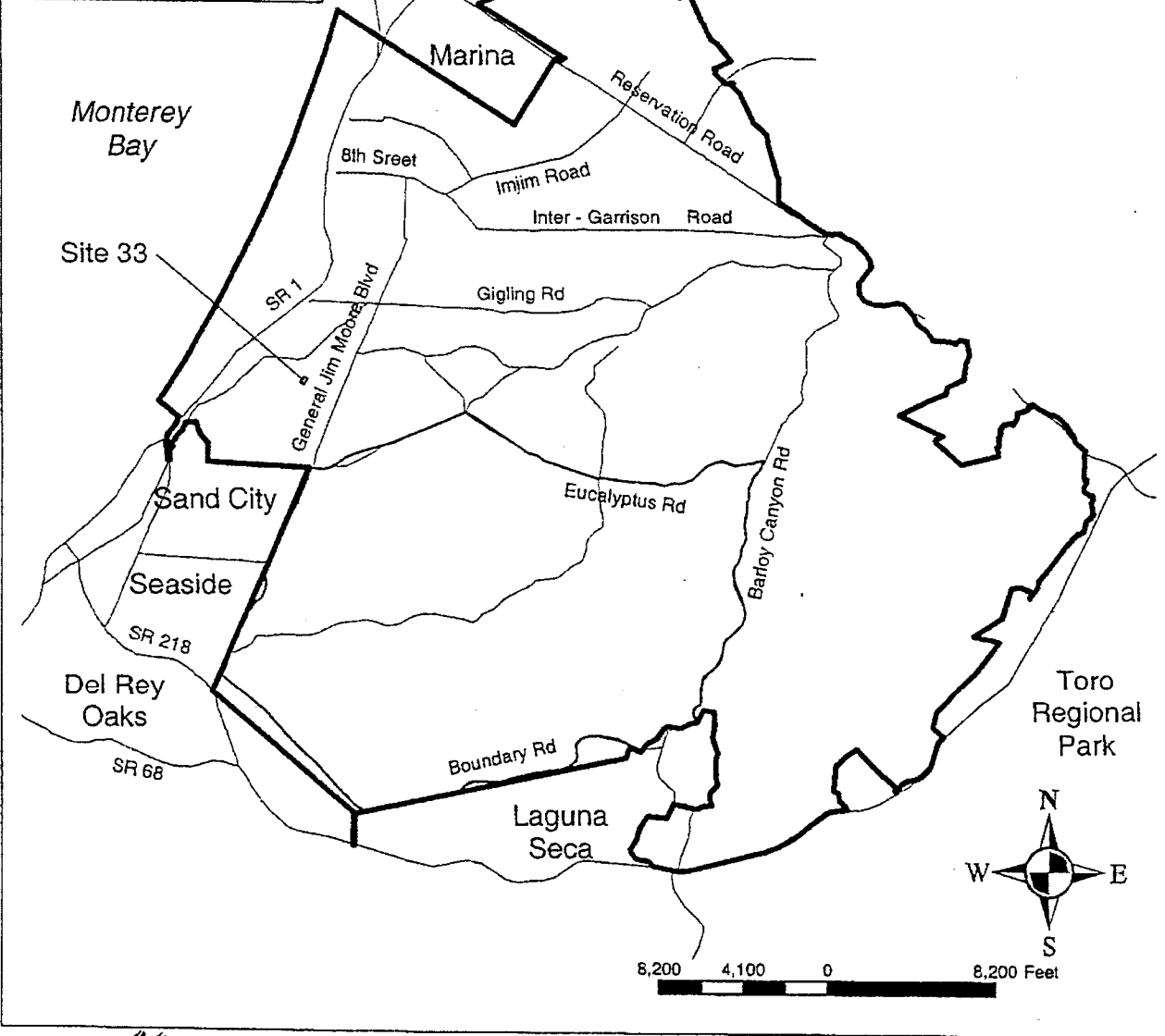
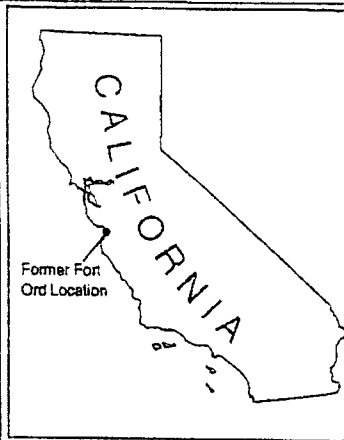


Plate1_ ExhibitA_Site33_crup.mxd



Exhibit A Location Map
Site 33 CRUP
 Former Fort Ord
 Monterey, California

PLATE
1

DRAWN JCF	JOB NUMBER 52703 00174	APPROVED	DATE 3/03	REVISED DATE
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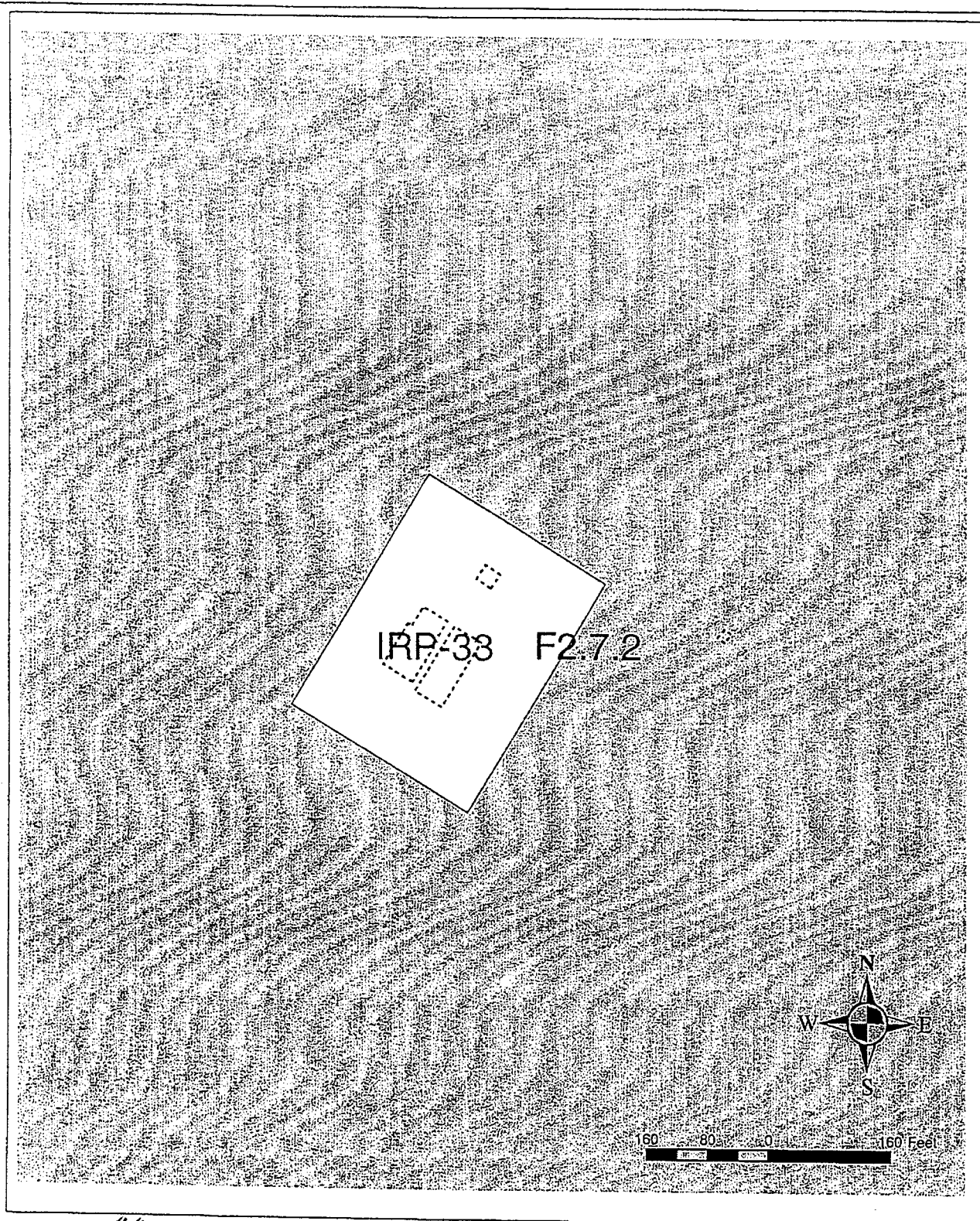


Plate2_ ExhibitA_Site33_crup.mxd



Exhibit A Site 33 (Parcel F2.7.2)
Site 33 CRUP
Former Fort Ord
Monterey, California

PLATE
2

DRAWN JCF	JOB NUMBER 52703 00174	APPROVED	DATE 3/03	REVISED DATE
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EXHIBIT "B"

Legal description of the property restricted by this covenant.

EXHIBIT B

**DESCRIPTION OF GOLF COURSE SITE 33 (F 2.7.2)
A 270 FOOT BY 350 FOOT (2.169 ACRE) PARCEL
BEING A PORTION OF FORT ORD GOLF COURSE
(VOLUME 26 OF SURVEYS AT PAGE 28 AND
VOLUME 19 OF SURVEYS AT PAGE 21)
FOR SACRAMENTO DISTRICT CORPS OF ENGINEERS**

CERTAIN real property situate in Rancho Noche Buena, County of Monterey, State of California, particularly described as follows:

COMMENCING at the most northerly corner of that certain 375.134 acre parcel , as said corner and parcel are shown on that certain Record of Survey filed November 16, 1994 in Volume 19 of Surveys at Page 21, Records of Monterey County, California, said corner also being designated as corner numbered twenty-seven (27) and bears North 44°30'36" East, 436.91 feet distant from corner numbered twenty-six (26), as shown on said map; thence


- a) South 24°11'58" West, 1410.85 feet to the **TRUE POINT OF BEGINNING**; thence
- 1) South 59°00'00" East, 270.00 feet; thence
 - 2) South 31°00'00" West, 350.00 feet; thence
 - 3) North 59°00'00" West, 270.00 feet; thence
 - 4) North 31°00'00" East, 350.00 feet to the **TRUE POINT OF BEGINNING**.

Containing 2.169 acres, more or less.

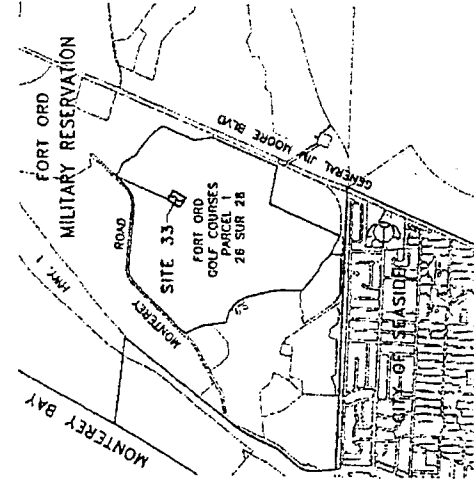
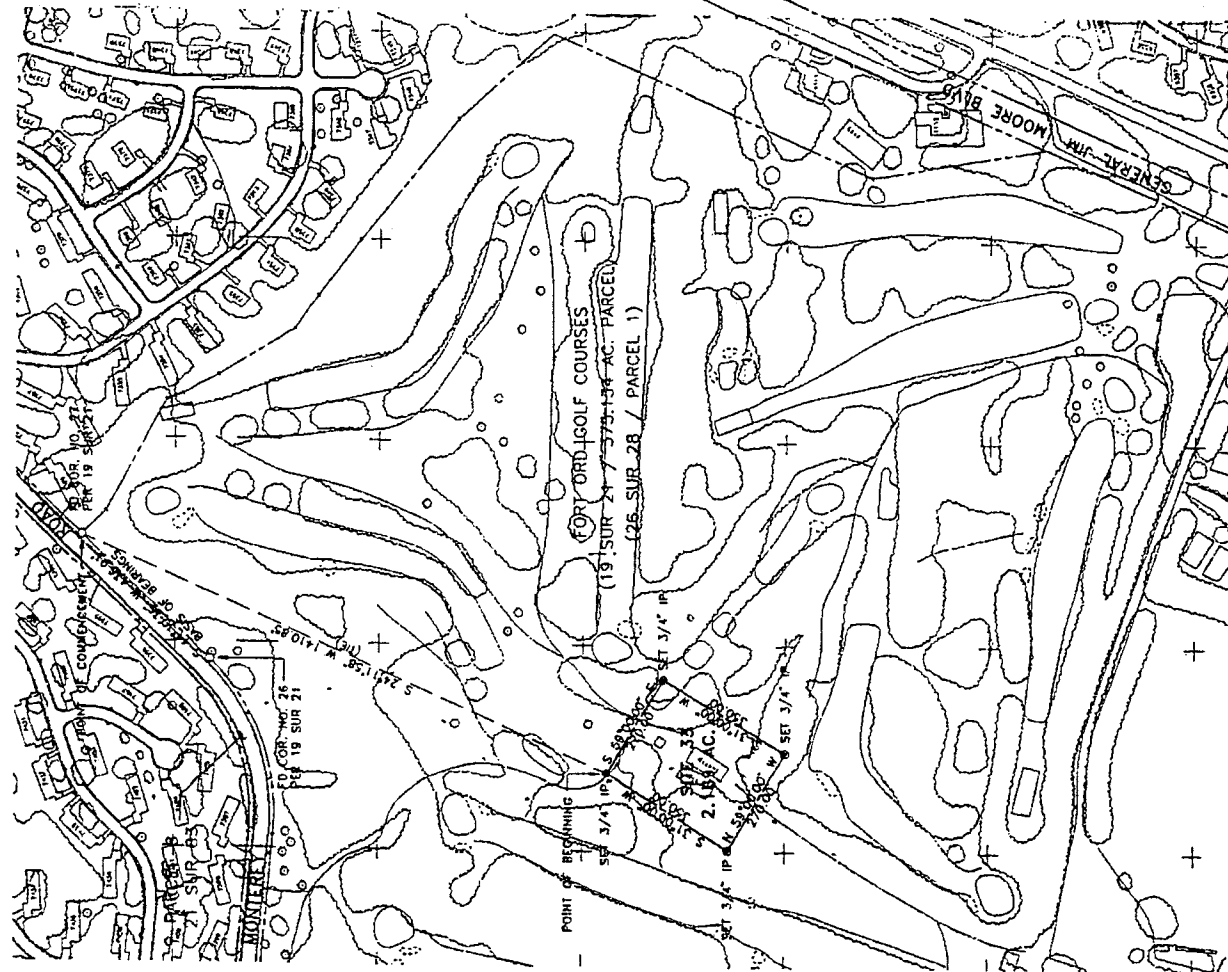
Basis of Bearings: The bearing of South 44°30'36" West as measured between found monuments along the most northerly northwesterly line of Parcel 1 as per map filed in Volume 19, Page 21 of Surveys in the office of the county recorder of Monterey County, California, said monuments labeled and so designated as corner numbers 27 and 26 thereon is the basis of bearings of this description.

Dated: October 24, 2003

Bestor Engineers, Inc.


JOHN M. VAN ZANDER
RCE #15310
State of California
Expires: 31 March 2005





COUNTY SURVEYOR'S STATEMENT
THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8749 OF THE PROFESSIONAL LAND SURVEYORS' ACT THIS _____ DAY OF _____, 2003.

COUNTY SURVEYOR _____
BY: DEPUTY COUNTY SURVEYOR
US NO. _____
STATE OF CALIFORNIA
EXPIRES: _____

COUNTY RECORDER'S STATEMENT
FILED THIS _____ DAY OF _____ OF SURVEY MAPS AT PAGE _____
AT _____ RECORDS OF MONTEREY COUNTY, CALIFORNIA, AT THE
REQUEST OF BESTOR ENGINEERS, INC.

BY: _____ DEPUTY
STEPHEN L. VACHIN
MONTEREY COUNTY, CALIFORNIA
SERIAL NO. _____
FEE: \$ _____

SURVEYOR'S STATEMENT
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF THE CITY OF SEASIDE IN OCTOBER 2003.

JOHN M. VAN ZANDER
RCE #15310
STATE OF CALIFORNIA
EXPIRES 31 MARCH 2005
DATE _____

BASIS OF BEARINGS
THE BEARING OF S44°30'36"W AS MEASURED BETWEEN FOUND MONUMENTS ALONG THE MOST NORTHERLY NORTHWESTERLY LINE OF PARCEL 1 AS PER MAP FILED IN VOLUME 19, PAGE 21 OF SURVEYS OF THE CITY OF SEASIDE, MONTEREY COUNTY, CALIFORNIA, AND MONUMENTS LABELED AND SO DESIGNATED AS CORNER NUMBERS 27 AND 28 THEREON IS THE BASIS OF BEARINGS FOR THIS SURVEY.

RECORD OF SURVEY
OF
SITE 33 BEING A PORTION
OF FORT ORD MILITARY RESERVATION
IN RANCHO NOCHE BUENA
MONTEREY CITY LANDS TRACT NO. 1
MONTEREY COUNTY, CALIFORNIA
FOR
CITY OF SEASIDE
BY

BESTOR ENGINEERS, INC.
CIVIL ENGINEERING - SURVEYING - LAND PLANNING
3751 BLUE LANE, MONTEREY, CALIFORNIA 93940
SCALE: 1" = 200' DATE: OCT 2003
NO. 8981.00

NOTES
1. DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
2. POINTS FOUND OR SET ARE SO NOTED. ALL OTHER POINTS ARE FOR REFERENCE ONLY.